DRAFT

STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE ENROLLED BILL ANALYSIS

Date Amended:	**Enrolled**	Bill No:	**AB 234**
Tax:	**Oil Spill Prevention and Administration Fee**	Author:	**Huffman**
Related Bills:			

This analysis only addresses the provisions that impact the Board.

BILL SUMMARY

This bill would increase the current cap on the Oil Spill Prevention and Administration Fee from five cents ($0.05) to six cents ($0.06) per barrel of crude oil or petroleum product and allows the oil spill Administrator to annually adjust the fee for inflation.

ANALYSIS

CURRENT LAW

Under existing law, Government Code Section 8670.40 imposes an **oil spill prevention and administration fee**, currently set at a rate of five cents ($0.05) per barrel, upon crude oil received at a marine terminal from within or outside the state, and upon petroleum products received at a marine terminal from outside the state. The fee is collected by the marine terminal operator from the owner of the crude oil or petroleum product based on each barrel that is received from a vessel operating in, through, or across the state's marine waters. Additionally, a pipeline operator pays the fee for each barrel of crude oil originating from a production facility in marine waters and transported in the state through a pipeline operating across, under, or through the state's marine waters.

The fee amount is set by the Administrator, an appointee of the Governor in the Department of Fish and Game. The Administrator annually prepares a plan that projects revenue and expenses over three fiscal years and uses the projections to set the fee to meet the current and proposed state budget. The Administrator may allow for a surplus if revenues are expected to be exhausted or for possible contingencies.

The fee is paid to the State Board of Equalization (Board) on a monthly basis and deposited into the Oil Spill Prevention and Administration Fund. The moneys in this fund are not used for responding to an oil spill but, rather, are used to fund oil spill prevention programs and various studies related to oil spills.

The Board also collects an **oil spill response fee** as required by Government Code Section 8670.48. A uniform oil spill response fee is paid by specified marine terminal operators, pipeline operators, and refiners, in an amount not exceeding $0.25 per barrel of petroleum product or crude oil. The Board only collects the fee when the funds in the Oil Spill Response Trust Fund fall below the specified level.

PROPOSED LAW

This bill would amend Government Code Section 8670.40 to increase the cap on the oil spill prevention and administration fee from five cents ($0.05) to six cents ($0.06) per barrel of crude oil or petroleum product. The Administrator may annually adjust the fee for inflation, as measured by the California Consumer Price Index (CPI). Additionally, the Administrator would be required to notify the Board of the adjusted fee rate, which is to be rounded to no more than four decimal places, with the fee to take effect on the first day of the month beginning not less than 30 days from the date of notification.

BACKGROUND

In 1990, Senate Bill 2040 (Chapter 1248, Keene) added and Senate Bill 7 (Chapter 10, Keene) amended Section 8670.40 to impose the Oil Spill Prevention and Administration Fee. These bills also enacted the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, which added provisions to the Government Code (§8670.1 et seq.), the Public Resources Code (§8750 et seq.), and the Revenue & Taxation Code (§46001 et seq.). The Act covers all aspects of marine oil spill prevention, administration, and response in California.

In 2008, the Legislature passed Assembly Bill 2032 (Hancock), which would have increased the maximum fee to eight cents ($0.08). The governor vetoed the bill for the following reasons:

> “This bill would authorize the Administrator of the Office of Spill Prevention and Response (OSPR) to increase the per barrel oil fee on oil delivered to a marine terminal or transported in the state by a pipeline through marine waters from the current 5 cents per barrel up to 8 cents per barrel.
>
> The per-barrel fee was increased in 2002, and OSPR is currently using those increased funds to implement a number of strategies to improve preparedness and operations that will not result in costs above what is included in the 2008 Budget Bill.”

COMMENTS

1. **Sponsor and Purpose.** This bill is sponsored by the author in response to a bunker fuel spill that occurred after a ship, the Dubai Star, spilled between 400 to 800 gallons of fuel while refueling in the San Francisco bay area on October 30, 2009. The purpose of this bill is to increase the revenue deposited into the Oil Spill Prevention and Administration Fund to cover OSPR’s administrative costs.

2. **Summary of amendments.** The **August 9, 2010, amendments** clarified that the Administrator may adjust the rate cap above six cents ($0.06) using the annual inflation factor. The amendments also required that the Administrator notify the Board of the adjusted fee rate, as specified. The **August 2, 2010, amendments** did not pertain to, or affect, the Board.

3. **A possible increase in the oil spill prevention and administration fee would not create administrative problems for the Board.** The Board currently administers and collects this fee. As previously explained, the Administrator would set the fee in accordance with an annual plan. The rate is currently set at five cents ($0.05) per barrel of crude or petroleum product. If the rate should change to six cents ($0.06), the Board will have no difficulty in administering a rate increase. Annual inflationary adjustments made by the Administrator would also not present an issue for the Board. The Administrator is required to provide the Board with sufficient notice when the new rate is set, with the new rate effective on the first day of the month beginning no fewer than 30 days following such notification, and that the new rate is rounded to no more than four decimal places.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board’s formal position.

COST ESTIMATE

The Board would incur minor costs to administer this measure, which would be absorbable in the current fiscal year. These costs would be attributable to, among other things, advising and answering inquiries from the public, identifying and noticing affected feepayers, and working with the Administrator to explain rate changes related to the inflation adjustment of the oil spill prevention and administration fee. The Board is reimbursed for its costs, as provided in statute.

REVENUE ESTIMATE

BACKGROUND, METHODOLOGY, AND ASSUMPTIONS

This bill would increase the upper limit on the oil spill prevention and administration fee from $0.05 to $0.06 per barrel of crude oil or petroleum product. It would also allow the Administrator of the OSPR to adjust the fee annually for inflation, as measured by the California CPI.

Current Revenue. According to the Board's 2008-09 Annual Report, the Board collected over $27 million in oil spill prevention and administration fees at the current maximum rate of $0.05 per barrel of crude oil or petroleum products. An analysis of the BOE data did not suggest any obvious trends in recent years; average fees collected over the past four fiscal years amount to $28 million.

Revenue Increase. This bill would increase that maximum rate by 20% to $0.06 per barrel of crude oil or petroleum products. If the fee was increased to the new maximum rate of $0.06 per barrel, collections deposited into the Oil Spill Prevention and Administration Fund would increase annually by $5.6 million (20% x $28 million = $5.6 million).

The Department of Finance forecast estimates that the California CPI will increase by an annual average of 3.0% over the next 3 years, which could result in an annual increase in revenue of $1 million per year [($28 million + $5.6 million = $33.6 million) x 3%].

REVENUE SUMMARY

- The estimated annual revenue gain from a fee increase to $0.06 per barrel of crude oil or petroleum product would be approximately $5.6 million.
- The revenue could increase by approximately $1 million per year if the fee was increased according to the CPI provision of the bill.

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